Legal Disclaimer

- The information and opinions expressed are for educational purposes only and are based on current practice, industry related knowledge and business expertise. The information provided shall not be construed as legal advice, express or implied.

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REFERENCE SERVICES INC

Agenda

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Redacting PII – Why this matters?
What PII is being redacted
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How RSI is adapting
What employers should be doing?
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Questions and Answers

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Redacting PII - Why This Matters?

- States are increasingly **redacting personally identifiable information (PII)** from public records

- These changes are driven by:
  Identity theft concerns
  Privacy legislation (state-level + consumer protection pressure)
  Cybersecurity and data misuse risks

Result: **background screening has fundamentally changed** — and not always in ways employers expect

The records still exist — but the identifiers we relied on to match them often don't.

What's Being Redacted (And Why It Matters)

- **Commonly Redacted Data Elements**
    - Full Date of Birth (often reduced to year only)
    - Social Security Numbers (full or partial)
    - Address history
    - Full legal names (middle names, suffixes removed)
    - Driver's license numbers

- **Why This Is a Compliance Issue?**
    - Background screening depends on **accurate record-to-candidate matching**
        - **Fair Credit Reporting Act (FCRA) requires a minimum of 2 PII**
        - **RSI best practice is 3 PII**
    - Redactions increase:
        - False positives (wrong person)
        - False negatives (missed records)
    - This creates **legal exposure**, not just operational headaches

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State Examples

State	Primary Redactions	Notable Policy
California	Date of Birth (DOB), Driver's License	Many counties (like Los Angeles and Kern) have removed DOBs from public search portals, requiring in-person verification.
Michigan	Date of Birth (DOB)	A 2022 Supreme Court ruling now requires courts to redact DOBs from all publicly accessible records.
Virginia	DOB, SSN, Street Address	State law (HB 2426) prohibits the online display of Social Security numbers, full birth dates, and exact street addresses.
New York	SSN, DOB, Minor Names	Redacts all but the last four digits of SSNs/Account numbers and the year of birth only.
Texas	SSN, Driver's License, Health Info	Highly strict "Sensitive Data" rules (Rule 21c) requiring parties to redact identifiers before filing.
South Carolina	Full Address History (as of Jan1, 2026)	primary identifiers will be the defendant's name and year of birth

Others with notable PII changes – Florida, Illinois, Massachusetts, Nebraska, Wisconsin

Compliance Risks for Employers

1. Fair Credit Reporting Act (FCRA)

Employers (and CRA's) must ensure:

Maximum possible accuracy

Reasonable procedures to avoid mismatches

Redacted records make accuracy harder — but **the obligation does not go away**

2. Adverse Action Risk

If a record is misattributed:

Candidate may dispute

Employer may face claims for negligent hiring or wrongful denial

Increased disputes = increased compliance workload

3. Adverse Impact Concerns

Name-only matching may disproportionately affect:

Common names

Certain ethnic or cultural groups

Raises EEOC and fairness concerns

How Screening Providers Are Adapting

Solutions exist – but require awareness

Common Mitigation Strategies
Layered search methodologies
Use of: Aliases, Prior addresses (when legally permissible), Case-level verification
Manual review and human adjudication
Jurisdiction-specific workflows – increased court runners
Adding Statewides to County level searches
Bio-Metric Identification Verification tools

Important Caveat
No provider can recover data that no longer exists. The focus has shifted from data access to process quality and compliance controls.

Compliance Risks for Employers

- Even though data is missing, employer compliance obligations remain the same.

- HR teams are still responsible for ensuring fair, accurate, and compliant hiring decisions. Redacted records don't reduce your risk — they change how that risk needs to be managed.

- Under the Fair Credit Reporting Act, employers and RSI must use reasonable procedures to ensure maximum possible accuracy. If a record is incorrectly matched to a candidate, it can lead to disputes, adverse action violations, and potential legal exposure. This is especially important when data is incomplete.

Employers Should Be Doing Right Now?

Best Practices

    Work closely with RSI when candidate discloses records – proven PII

    Review adverse action workflows

    Listen closely for disputes – RSI will handle

    Train HR teams on:

        Potential Delays

        Inconclusive results

        Escalation procedures

Policy Review

    Ensure background check policies:

        Reflect current data limitations

        Avoid over-reliance on "clean record" assumptions

Prepare for Increased Disputes & Delays

    More "Gray Area" Results

    Redactions often result in more inconclusive or "potential match" findings. That means more candidate questions, more disputes, and longer hiring timelines. HR teams should be prepared for increased communication and documentation requirements.

The Future Outlook

What's Likely Coming

More states adopting redaction-first policies

Increased privacy legislation

Reduced reliance on static public records

Greater scrutiny on employer decision-making processes

Ban The Box - https://www.findlaw.com/employment/hiring-process/ban-the-box-laws-by-_state.html

(link in chat)

Closing Thought:

Compliance isn't about having perfect data anymore — it's about proving you handled imperfect data responsibly.

Key Takeaways

- Compliance Is About Process, Not Perfect Data

- The goal is no longer perfect records — it's responsible decision-making. Employers that document their processes, understand limitations, and partner with compliant screening provider like RSI will be best positioned to manage risk in a changing landscape.

- State-level public record redactions are expanding, limiting access to key identifiers used in background screening.

- Employer compliance obligations remain unchanged, even as record accuracy and completeness become more challenging.

- Reduced identifiers increase matching risk, leading to potential errors, delays, and candidate disputes.

- Screening outcomes now vary by jurisdiction, making a one-size-fits-all background check process unreliable.

- Proactive oversight of internal policies is essential to manage risk and demonstrate reasonable compliance efforts.

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Thank you

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